



*State of New Jersey*  
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November 13, 2007

The Honorable Leonard C. Desiderio  
Mayor, City of Sea Isle  
4416 Landis Avenue  
Sea Isle City, NJ 08243

**Re: Sea Isle City Petition for Initial Plan Endorsement – Consistency Letter**

Dear Mayor Desiderio:

The Office of Smart Growth (OSG) and our state agency partners have reviewed the Initial Plan Endorsement petition submitted by Sea Isle City for consistency with the State Development and Redevelopment Plan (State Plan) and would like to commend the City for its active participation and dedication to the Plan Endorsement process. However, significant consistency issues remain that need to be resolved prior to OSG's recommendation for endorsement. Pursuant to N.J.A.C. 5:85-7.5(f), OSG requests additional information as outlined below in order to recommend the Sea Isle City petition for Initial Plan Endorsement by the State Planning Commission (SPC). OSG and our state agency partners are committed to working with the City to establish a timeline to address the consistency issues to receive Plan Endorsement from the SPC.

**State Agency Consistency Review**

The SPC reviews petitions for plan endorsement and endorses them on the basis of their consistency with the goals, policies and strategies of the State Plan and in accordance with the Plan Endorsement Guidelines. Upon review of the petition, OSG and the state agencies have identified areas of concern that need to be addressed before OSG can make a recommendation to the SPC to find the petition consistent with the State Plan. In cooperation with the state agencies, resolution of the issues identified in this report will also address issues that NJDEP has identified in order for DEP to designate a CAFRA center in Sea Isle City under the Coastal Areas Facility Review Act (CAFRA).

In order for DEP to designate a center endorsed by the SPC as a CAFRA Center, DEP must be able to make a finding that the center is consistent with the purposes of CAFRA and the Coastal Zone Management Rules. DEP must determine whether accepting a center would result in unacceptable harm to the coastal ecosystem or the resources of the built or natural environment. The DEP will provide technical assistance to complete the CAFRA requirements discussed below.

The Coastal Zone Management Rules require DEP to make this consistency determination within 90 days of SPC's endorsement. Therefore, municipalities seeking CAFRA center designation from DEP should

plan to meet the additional CAFRA requirements prior to or within 45 days of State Planning Commission endorsement. Fulfillment of these tasks will be necessary for DEP to accept boundary changes approved in Plan Endorsement for use in the CAFRA permit review under the Coastal Zone Management rules.

Attached are two documents, “Requirements for Municipal Plan Endorsement Consistency” and “Requirements for CAFRA Consistency” that provides further guidance as to what is needed in order to achieve plan endorsement by the SPC and to achieve CAFRA center designation from DEP subsequently thereafter. You can find the attached documents and other Plan Endorsement-related guidance online at the OSG website, <http://www.nj.gov/dca/osg/plan/endorsement.shtml>.

## **Consistency Issues**

### Vision

The vision statement provided in the petition does not meet the intent of Plan Endorsement and does not indicate that sufficient public participation took place. The City must provide OSG with proof of notice and meeting minutes or summaries where the vision was discussed in a public forum. Otherwise, the City will be required to conduct a visioning workshop so that the public may have adequate opportunity to comment. The vision statement shall look to the long-term future (for example, a 20-year horizon) of the municipality with regard to major planning issues such as land use, housing, economic development, infrastructure and services, and environmental protection. OSG shall provide technical assistance, as appropriate, so that the petitioner can articulate an appropriate vision.

### Master Plan

The City’s last full Master Plan dates back to 1988. The petition includes the latest Re-Examination Report from 2002. As the 2002 report is not a substantive update, certain elements are not sufficient for consistency.

Since the submitted documents do not accurately portray the City’s current objectives, new Master Plan elements shall be required in order for OSG to recommend Plan Endorsement to the SPC. The City shall work actively with OSG and its partner agencies to ensure that the following master plan elements are consistent with the State Plan:

- **Land Use Plan Element:** The Land Use Plan Element must generally correspond with the State Plan and Policy Map, including the delineation criteria and policy objectives for Centers and Planning Areas as outlined in the State Plan. The Land Use Plan Element shall reflect the boundaries of State Plan centers and planning areas. The Land Use Plan Element shall be completed with consideration of information from the Natural Resource Inventory (NRI) so that land uses are compatible with natural resources, environmental features and the CAFRA Coastal Consistency Bar. The Land Use Plan Element shall incorporate information and/or concepts from relevant state or regional efforts (i.e. Cape May water supply build-out study, NJDOT corridor study) as much as is possible depending on the progress of those efforts and their connections to land use. The Downtown Master Plan states: “The existing zoning does not support the types of uses, or the development intensity necessary to create a vibrant, mixed-use downtown. A mix of uses is consistent with the SDRP and should be encouraged.” The Downtown Master Plan shall also be incorporated into and adopted as a part of Land Use Element, and inconsistencies within the existing Land Use Element shall be amended accordingly.

If existing development regulations, such as the zoning map or land use inventory, do not correspond to changes made to the Land Use Element through the Plan Endorsement process, then such regulations will need revision as early action items in the Planning Implementation Agreement (PIA). CAFRA requirements will also be identified as early PIA items. Accordingly, the Land Use Plan Element must include narratives to support ordinances requested through the Action Plan and CAFRA Coastal Consistency PIA items:

- Habitat Conservation Program: Sea Isle City's beach has been mapped as critical habitat for threatened and endangered species (for example, the Piping Plover and Least Tern). The State requires additional documentation demonstrating the City's efforts to protect these critical habitats. To protect areas of high quality habitat, the City shall develop a Habitat Conservation Program, as part of the Master Plan, specifying conservation requirements and implementation measures to protect habitat of Federal and State listed threatened and endangered species. Conservation Program requirements may include a mix of options that include the creation, enhancement, restoration, acquisition or preservation of habitat and/or monetary contributions for these purposes.
- Wellhead Protection Program: The Wellhead Protection Program shall manage potential sources of contamination and threatening activities that occur within a source water protection area. The Program shall include delineation of the source water protection area, an inventory of known and potential contamination sources, a determination of water supply system susceptibility to these contaminants, public outreach and education about threats, implementation measures to prevent, reduce or eliminate threats, and contingency planning strategies to address with water supply contamination or service interruption emergencies. Source Water Protection Programs can be developed for the protection of either groundwater supplies of drinking water, wellhead protection areas or surface water supplies, intakes and reservoirs and their drainage.
- The Land Use Element shall also reference, through a narrative, relevant policies and initiatives set forth in the 2007 NRI.
- Existing Land Use Map: The City submitted two Land Use Maps, the first of which is NJDEP's Land Use Land Cover Layer. The second map is in black and white and illegible. An accurate Land Use Map, based on existing uses, shall be submitted electronically in color. In addition, the GIS layer shall be submitted.
- Housing Element: Page 41 of the petition acknowledges the need for an affordable housing plan. Given the second round affordable housing obligation of 430-units and the third round growth share, there remains significant concerns as to how Sea Isle City will meet its affordable housing need. Accordingly, the City shall develop a Housing Element that is consistent with the Land Use Plan Element. Prospective housing sites shall not be encumbered by environmental constraints, and shall be in areas served by water and wastewater infrastructure. The Element shall discuss how the municipality will provide housing that is appropriate to the scale and resources of the area and accessible to services and other neighborhoods (i.e. sidewalks, bicycle paths). The Element shall include consideration for design, access and capacity. The Housing Plan shall include strategies to meet this obligation with existing housing, accessory apartments and redevelopment opportunities.

According to page 30 of the petition, "The current trend for residential construction in Sea Isle is to demolish older single-family homes and build in their place two-family dwellings." This may pose an infrastructure and capacity problem in the future. Accordingly, the new Housing Element shall be consistent with existing water and sewer capacity.

#### Emergency Planning

The petition shall include formal evidence that the City has an Emergency Operating Plan approved by the New Jersey State Police. An approval letter from the State Police may be submitted in lieu of the full Plan.

#### Proposed Center Boundary and Planning Area Changes

Sea Isle City's petition includes a request to designate the entire city, including the area north of 22<sup>nd</sup>

Street and Landis Avenue, as a Town center. Sea Isle City meets the Town Center Criteria described in the State Plan. However, the proposed center includes environmentally sensitive areas such as Natural Heritage Priority (NHP) Sites, and areas that are susceptible to flooding, erosion and severe storms. Accordingly, these areas are not necessarily suitable for the infrastructure necessary to support a center designation.

OSG and NJDEP will meet the City to discuss an appropriate center boundary that takes into consideration that the City does not currently have an up-to-date Wastewater Management Plan or implemented the necessary associated resource protection measures. The CAFRA Center boundary shall be consistent with proposed State Plan center boundary.

The City has also proposed Planning Area changes for several areas within the City, as mapped in the appendix of their Plan Endorsement Petition document. The petition states that “Recent review of the Parks and Natural Areas designations has identified incorrect mapping which shows areas that are either in private ownership, developed, or municipal owned lands but not included in the City’s Recreation and Open Space Inventory (ROSI)” (PE Petition, p 17). The City shall supply OSG with specific documentation reflecting this ownership, and GIS shapefiles to specify the geographic location of the proposed planning area changes.

### **Planning and Implementation Agreement (PIA)**

The PIA outlines the ongoing planning and regulatory changes needed to implement the Endorsed Plan. As Sea Isle City seeks both State Plan and CAFRA Center designation, the PIA includes two sections dealing with implementation necessary to meet both Plan Endorsement and the Coastal Zone Management Rules. In addition to those items included in the draft PIA, the PIA shall be revised and/or include the following:

### **DEP CAFRA Consistency PIA Requirements**

#### COASTAL CONSISTENCY STATEMENT

This statement shall address natural resource protection and coastal management in Sea Isle City through demonstration of consistency of local plans and ordinances with the goals of the Coastal Zone Management Program found in the Coastal Zone Management rules at N.J.A.C. 7:7E et seq. Municipal plans shall also be consistent with any existing DEP rule, permit or plan including Municipal Stormwater Regulations and Federal River Management Plans.

#### Zoning Ordinance

The City shall make zoning ordinance revisions and/or adopt new ordinances to implement the policies and recommendations of the Master Plan, and accurately reflect center boundaries and/or planning area changes. In addition, the City shall adopt ordinances that support appropriate environs protection measures for Critical Environmental Sites (CES), including zoning, resource protection, and site plan and subdivision ordinance revisions that are consistent with coastal goals and wastewater management plans. The City shall provide documentation of existing ordinances, or adopt ordinances that implement both center-based development and adequate environs protection. The Zoning Ordinance shall be consistent with the environmental programs described in the newly amended Master Plan, including but not limited to, those implementing the Habitat Conservation Program, Wellhead Protection Program, and the NRI.

#### Water Supply

Municipalities must provide documentation that water supply capacity exists for the amount of growth detailed in the endorsed Master Plan. This documentation must identify existing and proposed water supply sources. For existing public water sources, identify the available approved allocations and firm capacity. In addition, municipalities must identify local water conservation measures required to ensure efficient use of available resources and methods to be used to promote wastewater reuse.

### Wastewater Management Plan

The Cape May County Wastewater Management Plan (WMP) expired in September 2007. The City shall work with Cape May County to revise the Sea Isle City portion of the WMP. The WMP shall be up-to-date, comply with Executive Order 109 guidance and be consistent with the Master Plan and the Plan Endorsement petition. Proposed wastewater service shall be pulled back from the Environmentally Sensitive Planning Areas, and other areas not proposed for growth. For areas not served by sewer, zoning ordinances shall be amended to be consistent with the densities required pursuant to the Septic Management component of the WMP.

### Circulation Element

The Circulation Element shall be updated to provide analysis of current parking availability and potential parking strategies. The Circulation Element shall reconsider additional parking in the environmentally sensitive and flood prone velocity zones of the north-end of the municipality. The current Master Plan and subsequent Re-Examination reports encourage the development of parking and public facilities in the north-end, which the State feels is not an appropriate use for these areas due to the existence of environmental constraints.

The revised Circulation Element shall also include a discussion of strategies for goods movement, including regional freight and local truck deliveries to businesses. The Element shall consider the ability of the transportation system throughout the entire municipality to accommodate existing and planned land uses, as well as redevelopment initiatives. It shall also discuss opportunities to maximize the efficiency of existing transit and paratransit services. These issues are not specific to CAFRA, and could be completed as part of the PIA. However, we strongly encourage Sea Isle City to address them when addressing the parking issues.

### **State Plan PIA Requirements**

Generally, the PIA shall be formatted by subject with corresponding numbering. OSG shall provide a template for this format. Through negotiations, the timeframes in the PIA shall be revised to be more specific (i.e. specific timeframes for completion of tasks, rather than the range that is currently provided in the Draft PIA).

### General

- The City shall submit drafts of all new and revised planning documents required by this PIA for review by the OSG and partner agencies.
- Upon fulfillment of the CAFRA Coastal Consistency requirements, DEP shall publish in the New Jersey Register a notice of its determination to accept, reject, or reject and revise the boundaries of any centers, cores, nodes or planning areas that are part of Plan Endorsement.
- The City shall submit a biennial report concerning the terms of this PIA and related efforts pursuant to NJAC 5:85-7.12(c). Due to the significant number of PIA items likely to be addressed in the first year, the City shall submit the first report one year after Endorsement, and then every two years thereafter.
- For PIA entries that require NJDOT assistance, the state assistance column shall have an asterisk denoting the following: "When requested, NJDOT shall give priority consideration to providing technical assistance consistent with program requirements and subject to the availability of state resources."
- The City shall coordinate with planning efforts of adjoining municipalities, the County and State and regional planning efforts particularly concerning: regional planning, transportation, economic development, tourism, natural resource protection and open space and recreation.

### Zoning

As suggested in the Downtown Master Plan, "the use standards and bulk requirements of the Land

Development Ordinance shall be modified to provide the necessary incentives to stimulate reinvestment.” In addition to the Zoning amendments required for Coastal consistency, zoning scenarios shall be adopted that are consistent with the amended Land Use Element that incorporates the Downtown Master Plan.

The zoning ordinance shall also be amended to be consistent with the adopted Housing Element.

The City shall provide copies of its annual report of zoning activities per the MLUL requirement outlined in N.J.S.A. 40:55D-70.1.

#### Economic Development

The City shall prepare an Economic Development Element of the Master Plan. The local business community shall be involved. The City shall complete an inventory and categorize existing businesses to identify potential demand. The City shall also complete an analysis of the consumer market to identify viable options for economic development for Commercial or Central Business Districts (CBDs). Economic development plans should align with the State Plan as well as regional economic plans. The City shall also establish projections on job creation in each district along with a timeline demonstrating potential job creation.

#### Water Conservation Plan

The Water Conservation Plan shall reduce water consumption levels, reduce the loss and waste of water, improve the efficiency in the use of water, increase recycling and reuse in the water supply, and extend the life of current water supplies by reducing the rate of growth in demand. Ordinances shall be adopted to implement these plans. The Water Conservation Plan shall be implemented through the adoption of consistent ordinances.

#### Water Supply

The PIA shall include a statement as to its intention to participate in the Gibson Bill State Water Supply Study, as well as any county conservation studies to the greatest extent possible.

#### Changes to existing PIA items

- Housing, Item H1, lists the need for a new housing element. This item has been removed from the PIA, because the Housing Element shall be completed as part of the Action Plan. However, as stated above, the PIA shall include implementation of the adopted Housing Element through the adoption of consistent ordinances.
- Infrastructure, Item I1, lists the need to extend sewer service boundaries North of 22<sup>nd</sup> Street. This item shall be modified upon agreement to final center boundaries and CES.
- Under Conservation, Item C7 lists the need for an “excursion park”. This item needs clarification before OSG can make a determination as to its appropriateness.
- Under Conservation, Item C8 lists the need to develop and construct the North End Passive Park. This item also requires clarification before OSG can make a determination as to its appropriateness.

#### Conclusion

Pursuant to N.J.A.C. 5:85-7.5(f), the City shall submit an amended petition within 90 days, by February 11, 2008. Should the City be unable to provide us with the necessary items within the prescribed timeframe, the petition shall be considered withdrawn and no further action shall be taken by OSG unless Sea Isle City resubmits a petition for consideration.

On October 17, 2006, the State Planning Commission adopted a resolution that authorizes OSG to continue to work with petitioning entities towards Plan Endorsement by allowing for an extension of the time periods contemplated by the State Planning Rules through the execution of a Memorandum of Understanding (MOU) and an agreed-upon Action Plan that establishes timelines for completion and evaluation of the tasks identified by the Action Plan. Any extension of time authorized by an MOU

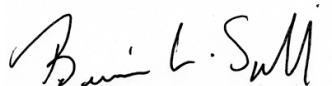
would be contingent on the petitioning entity's compliance with a mutually agreed-upon Action Plan, compliance with the MOU, and the petitioning entity's good faith efforts towards achieving Plan Endorsement

Should the City choose to work under an Action Plan and MOU with the SPC, please notify OSG within 30 days, by December 13, 2007. Given the breadth of items to be resolved, we recommend that you enter into the Action Plan and MOU. Accordingly, we would like to schedule a meeting with you and representatives of the relevant State agencies to further discuss next steps and formulate this Action Plan.

We also wanted to make you aware that the State Planning Commission adopted "new" Plan Endorsement Guidelines on October 17, 2007. While the City has a vested right to continue under the Initial Plan Endorsement guidelines, we recommend that the City withdraw its petition for initial plan endorsement, and consider seeking endorsement under new Plan Endorsement. New Plan Endorsement is a more comprehensive review, but includes greater benefits for the City and thoroughly incorporates the CAFRA requirements, thereby streamlining the DEP review process. We would be happy to meet with the City to discuss this option further.

Thank you again for your commitment to the Plan Endorsement process. If you have any questions or concerns, please feel free to contact Kate Meade, Planner for Cape May County within the Office of Smart Growth, at (609)-633-8573 or via email at [kmeade@dca.state.nj.us](mailto:kmeade@dca.state.nj.us).

Sincerely,



Benjamin L. Spinelli  
Executive Director

BLS:km

Attachments

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